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May 20, 2002

Michigan Supreme Court
PO Box 30052
Lansing, MI 48909

Re: Files 1999-50 and 2000-27
Concerning proposed amendments to Michigan Court Rules

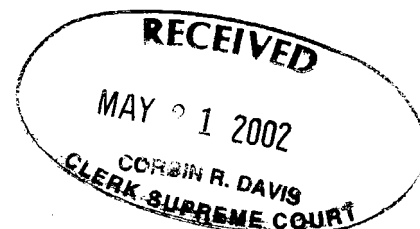
Dear Justices:

I am writing to oppose proposed changes to the court rules, specifically, the proposed change to MCR 7.302(c) that changes the time period for appeals to the Michigan Supreme Court from the Court of Appeals.

Current provisions call for a "timely" filing date of 21 days from the Court of Appeals decision, with an equally good "delayed" filing date of 56 days from the Court of Appeals decision. The proposed rule would provide a single deadline of 42 days from the Court of Appeals decision, without any opportunity to file later. The practical effect of the new rule would be to reduce by 2 weeks (14 days) the time for a disappointed Court of Appeals litigant to apply for leave to appeal to the Michigan Supreme Court.

There are many reasons that I oppose this change:

1. The court rule change does not solve any existing problem. No benefit arising from the proposed rule has been stated, nor has any intolerable problem with the present rules been stated.
2. One effect of the court rule change is that litigants must prepare their documents more quickly, resulting in a lowered level of quality. This may actually reduce the value of the pleadings filed to the Justices and staff who must read them.
3. Another effect of the court rule change is that some litigants will inadvertently miss the deadline, cutting them off from the opportunity to get Supreme Court review to which they are legally entitled.
4. The 56 day deadline is well known, especially to state prisoners. After the rule change, many people will continue to believe that the deadline is 56 days, and people will continue to get the now-wrong advice about the deadline, leading to injustice.



5. Litigants will often not learn of the Court of Appeals ruling promptly. This is especially true of prisoners who must rely on their attorneys to inform them of the ruling. If the attorney delays in informing the prisoner of the Court of Appeals ruling, the prisoner will lose his right to appeal because of a factor that is not his fault and not within his control.

If the intent of the Michigan Supreme Court is to further close off access to the courts, the proposed rule will accomplish that well. I would submit that with the application of the 6.500 court rules, which drastically diminish the fairness of appeal type proceedings after the first appeal, the manifest need is to enhance the fairness of the proceedings on the first appeal, not to diminish the fairness. The proposed rule would announce to the world the attitude of the Michigan courts that people with complaints about how they were treated in court should just shut up and go away, and that the courts will do everything possible to make sure that a citizen's complaints are never heard by the Michigan Supreme Court.

If this rule were to be adopted, I would recommend that the court also adopt an additional change. Surely, any deadline is unfair where the affected individual does not know that his time has started to run. Surely, any deadline is unfair where the affected individual does not know the length of the deadline, and is deceived by information about the previous, more generous deadline. I therefore propose one of these subrules to be added to the proposal, if the proposed rule is to be adopted.

Proposal 1:

- a) In the case of a criminal appeal, it shall be the duty of the attorney for the Defendant-Appellant or Defendant-Appellee, or the Defendant-Appellant or Defendant-Appellee himself if not represented, to provide the Court of Appeals with a current address of the Defendant. Upon issuing a ruling in the case, the Court of Appeals shall mail a copy of the ruling to both the attorney for the Defendant and the Defendant himself. The Court of Appeals shall also mail a notice which shall state what is the time limit for filing with the Michigan Supreme Court. In the case of an incarcerated Defendant, the 42 days to file an Application for Leave to Appeal with the Michigan Supreme Court shall begin on the date he or she receives actual notice of the Court of Appeals ruling.

Proposal 2:

- b) In the case of a criminal appeal, it shall be the duty of the attorney for the Defendant-Appellant or Defendant-Appellee to promptly mail a copy of the Court of Appeals ruling to the Defendant. The attorney shall also mail a notice which shall state what is the time limit for filing with the Michigan Supreme Court. The attorney shall file a proof of service at the Court of Appeals showing that the opinion and notice was sent to the Defendant. In the case of an incarcerated Defendant, the 42 days to file an Application for Leave to Appeal with the Michigan Supreme Court shall begin on the date he or she receives actual notice of the Court of Appeals ruling.

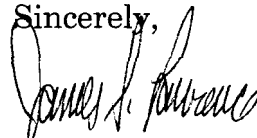
Proposal 3:

- c) In the case of a criminal appeal, it shall be the duty of the prosecuting attorney opposing the Defendant-Appellant or Defendant-Appellee to promptly mail a copy of the Court of Appeals ruling to the Defendant. The prosecuting attorney shall also mail a notice which shall state what is the time limit for filing with the Michigan Supreme Court. The prosecuting attorney shall file a proof of service at the Court of Appeals showing that the opinion was sent to the Defendant. In the case of an incarcerated Defendant, the 42 days to file an Application for Leave to Appeal with the Michigan Supreme Court shall begin on the date he or she receives actual notice of the Court of Appeals ruling.

Proposal 4:

- d) An incarcerated criminal Defendant who has missed the filing deadline to the Michigan Supreme Court can have that deadline extended by filing with the Michigan Supreme Court an affidavit that he first received notice of the Court of Appeals ruling on a particular date. The filing deadline at the Michigan Supreme Court shall then be extended until 42 days after the date that the incarcerated criminal Defendant received the notice. If the prosecutor wishes to *contest the Defendant's affidavit*, the prosecutor may apply to the Circuit Court for a hearing at which evidence is taken on the subject of the notice given to the Defendant. If the prosecution meets its burden of showing that the Defendant had timely notice of the Court of Appeals ruling, the Michigan Supreme Court filing deadline shall not be extended. If the prosecution does not meet its burden of showing that the Defendant had timely notice of the Court of Appeals ruling, the Michigan Supreme Court filing deadline shall be extended for 42 days from the time that the Circuit Court ruling is served on the Defendant.

Sincerely,

A handwritten signature in black ink, appearing to read "James S. Lawrence", written over a horizontal line.

James S. Lawrence